

# HOUSE BILL REPORT

## HB 2362

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### As Reported by House Committee On: Ways & Means

**Title:** An act relating to providing support for judicial branch agencies by imposing surcharges on court fees and requesting the supreme court to consider increases to attorney licensing fees.

**Brief Description:** Providing support for judicial branch agencies by imposing surcharges on court fees and requesting the supreme court to consider increases to attorney licensing fees.

**Sponsors:** Representative Kessler.

#### **Brief History:**

##### **Committee Activity:**

Ways & Means: 4/16/09, 4/18/09 [DPS].

#### **Brief Summary of Substitute Bill**

- Creates surcharges for certain services provided by superior and district courts.
- Establishes a Judicial Stabilization Trust Account to be used for the support of judicial branch agencies.

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### HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Linville, Chair; Ericks, Vice Chair; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew and Sullivan.

**Minority Report:** Do not pass. Signed by 9 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Hinkle, Priest, Ross, Schmick and Seaquist.

**Staff:** Alex MacBain (786-7288) and Courtney Barnes (786-7194)

#### **Background:**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Overview of Superior Court Fees.

County clerks are elected officials who oversee all record-keeping matters pertaining to the superior courts, including receipting fees, fines, court-ordered moneys, and disbursement of funds. County clerks collect superior court filing fees and other fees for court services as prescribed by statute.

The following table gives the current fee schedule for certain fees collected by the county clerks for their official services. These fees are subject to division between the county, the Public Safety and Education Account (PSEA), and the county or regional law library fund, with the exception of the fee for filing a notice of appeal or notice of discretionary review. The fee for filing a notice of appeal or discretionary review is transmitted to the appropriate state appellate court.

<b>Superior Court Filing</b>	<b>Fee</b>
First or initial paper in any civil action	\$200
Unlawful detainer action	\$45
First or initial paper on appeal from a court of limited jurisdiction or any civil appeal	\$200
Petition for judicial review under the Administrative Procedure Act	\$200
Notice of debt due for the compensation of a crime victim	\$200
First paper in a probate proceeding	\$200
Petition to contest a will admitted to probate or petition to admit a will which has been rejected	\$200
Notice of appeal or notice of discretionary review	\$250

Overview of District Court Fees.

District courts are courts of limited jurisdiction. They have concurrent jurisdiction with superior courts over misdemeanor and gross misdemeanor violations and civil cases in which the amount claimed or in dispute is \$75,000 or less. District courts also have jurisdiction over small claims and traffic infractions.

District court clerks are required to collect fees for various services as prescribed by statute. Except for certain costs, all costs, fees, fines, forfeitures, and penalties collected in whole or in part by the district court are remitted by the district court clerk to the county treasurer. The county treasurer must remit 32 percent of the non-interest money received by district courts to the State Treasurer for deposit into the PSEA. The remaining balance of the non-interest money received by the county treasurer is deposited in the county current expense fund and the county or regional law library fund. Expenditures of the district court are paid from the county's current expense fund.

The following table gives the current fee schedule for certain fees collected by the district court clerks for their official services.

<b>District Court Filing</b>	<b>Fee</b>
Any civil action at time of commencement or transfer	\$43 + potential \$10 surcharge for dispute resolution centers
Counterclaim, cross-claim, or third-party claim	\$43 + potential \$10 surcharge for dispute resolution centers
Small claims	\$14 + potential \$15 surcharge for dispute resolution centers

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### **Summary of Substitute Bill:**

The following temporary surcharges are added to the fees collected by the superior and district courts:

- \$30 for the filings listed in the superior court chart above, except for the filing of a first or initial paper in an appeal from a court of limited jurisdiction, which is subject to a \$20 surcharge;
- \$20 for the filings listed in the district court chart above, excluding small claims; and
- \$10 for small claims filings.

The surcharges are in addition to the existing fees collected by the superior and district courts. The surcharges expire on July 1, 2011. All surcharges collected by the courts must be remitted to the State Treasurer for deposit in the Judicial Stabilization Trust Account.

### **Judicial Stabilization Trust Account.**

A Judicial Stabilization Trust Account (Trust Account) is established in the custody of the State Treasurer. The surcharges created by this act must be deposited in this Trust Account. Moneys in the Trust Account may be spent only after appropriation, unless otherwise authorized by statute. Expenditures from the Account may be used only for the support of judicial branch agencies.

### **Substitute Bill Compared to Original Bill:**

The original bill contained a \$50 surcharge on the superior court filing fees, except that the surcharge on unlawful detainer filings was \$93. The original bill included a \$50 surcharge on the fee imposed upon a criminal conviction or guilty plea. The original bill imposed a surcharge of \$200 on the fee for notice of appeal or discretionary review, and did not contain the surcharges on district court filings or small claims filings. The original bill encouraged the Washington Supreme Court to increase attorney licensing fees, which would be deposited in the Trust Account to support the operation of the state law library.

**Appropriation:** None.

**Fiscal Note:** Requested on April 15, 2009.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect July 1, 2009.

**Staff Summary of Public Testimony:**

(In support) None.

(With concerns) The PSEA, where the shared court fees have gone, is not just a court account. Sexual assault programs receive funding from the PSEA, and crime victims compensation receives funding from the PSEA. A concern is how will this surcharge impact the revenues going into the PSEA? It is appreciated that on this list of surcharged items, the anti-harassment filing fee was excluded from an increase, and the Washington Coalition of Sexual Assault Programs would encourage you to continue to exclude filing fees for victims if you are going to look at any model in this area.

(Opposed) The judiciary really appreciates the difficulties the Legislature always faces in trying to balance the budget, particularly in hard times like we are experiencing now. The judiciary has the greatest respect for the job that you do, and when we do oppose a proposition, we do it with the utmost respect. We were aware of this Trust Account, and that it was anticipated that it would be funded by filing increases, but we didn't know the magnitude of the increases until recently. The reaction from the leadership of the judiciary around the state is almost entirely negative.

This bill runs counter to some core beliefs of the judiciary. The first is making justice accessible to everyone. Large filing fee increases inhibit access to justice. Most of the users of our court system are just ordinary people who have family disputes, a dissolution case, a child custody issue, landlord/tenant issues, boundary disputes, and small probates. Large filing fees are a stumbling block to people who want to use this public justice system that's been set up in our State Constitution, to provide a place where people can obtain a just decision in their disputes.

Large filing fee increases are also counter to another core belief that an efficient and available justice system benefits society as a whole, even those people who will never in their entire life use the court system. Just like the public schools benefit all of us, even if you don't have children of your own, the public justice system benefits us all. When we get these large filing fee increases, we move the system toward a fee justice system.

This bill also inhibits counties' ability to operate. Judges can waive the court fee which is split with the county. If those fees are necessarily waived because of the overall total cost to litigants, then the whole county suffers.

Landlords need periodic access to the court system. The more you increase those filing fees in superior court for landlords, the more you discourage landlords from using the legal system and perhaps reverting to self-help to deal with tenants who are not paying rent.

**Persons Testifying:** (With concerns) Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs.

(Opposed) Chief Justice Gerry Alexander, Washington Supreme Court; Joe Puckett, Washington Multi-Family Housing Association; Kevin Underwood, Washington Collectors Association; Julie Johnson, Rental Housing Association; Debbie Wilke, Washington Association of County Officials; and Ruth Gordon, Washington Association of County Clerks.

**Persons Signed In To Testify But Not Testifying:** None.